

minute that the gentleman from Pennsylvania [Mr. Kelley] yielded back to the gentleman from Virginia [Mr. Smith] for debate.

MR. [HOWARD W.] SMITH of Virginia: Mr. Chairman, we have been in session for a long time. It is now almost 7 o'clock, and it is obvious this bill cannot be seriously considered and concluded during this session of the House. I think most of the Members are very tired. It is about time we were getting away from here. I think a good many of them are ready to get away.

MR. [FRANKLIN D.] ROOSEVELT [Jr., of New York]: Mr. Chairman, will the gentleman yield?

MR. SMITH of Virginia: I yield to the gentleman from New York.

MR. ROOSEVELT: I would like to ask the gentleman if he realizes I am feeling very wide awake and I have no desire to leave until we complete the business of the day.

MR. SMITH of Virginia: The gentleman is a good deal younger than some of us and I congratulate him. I admire him, I like to see him up here jumping around and going on. But I think it is about time we quit. Therefore, Mr. Chairman, I move the Committee do now rise.

MR. POWELL: Mr. Chairman, a point of order.

THE CHAIRMAN: The gentleman will state it.

MR. POWELL: Mr. Chairman, I yielded 1 minute to the gentleman from Virginia only for debate.

MR. SMITH of Virginia: Mr. Chairman, I ask recognition on my own to offer a preferential motion.

THE CHAIRMAN: The gentleman from New York yielded to the gentleman

from Virginia for a particular purpose. The motion offered by the gentleman from Virginia is not in order at this time.

MR. SMITH of Virginia: Mr. Chairman, I now move, on my own time, that the Committee do now rise.

THE CHAIRMAN: The gentleman from Virginia has no time. The gentleman from New York and the gentleman from Pennsylvania have control of the time.

MR. POWELL: Mr. Chairman, I now yield 4 minutes to the gentleman from South Carolina [Mr. Sims] for debate.

MR. SMITH of Virginia: Mr. Chairman, will the gentleman yield?

MR. [HUGO S.] SIMS [Jr., of South Carolina]: I yield to the gentleman from Virginia.

MR. SMITH of Virginia: Mr. Chairman, having some time of my own, I now move that the Committee do now rise.

THE CHAIRMAN: The gentleman from South Carolina was yielded 4 minutes time for debate. He in turn yielded to the gentleman from Virginia but he cannot yield to the gentleman from Virginia for the purpose of offering that motion.

An appeal was then taken from the ruling of the Chair and the ruling was sustained on a teller vote.

## **§ 25.—Proceedings Subsequent to Action on Motion**

### ***Reporting to House***

#### **§ 25.1 Where the Committee of the Whole votes merely that**

**the Committee rise, the Chairman reports to the House that the Committee has considered a certain bill and has come to no conclusion thereon; he does not under this procedure report the bill with amendments back to the House.**

On Aug. 24, 1949,<sup>(6)</sup> during consideration of H.R. 6070, to amend the National Housing Act, and after agreement to a particular amendment, Chairman Mike Mansfield, of Montana, ruled on the procedure to be followed in reporting to the House where the Committee of the Whole votes to rise.

MR. [BRENT] SPENCE [of Kentucky]: Mr. Chairman, I move that the Committee do now rise.

MR. [JESSE P.] WOLCOTT [of Michigan]: Mr. Speaker, a parliamentary inquiry.

THE CHAIRMAN: The gentleman will state it.

MR. WOLCOTT: If the Committee rises at the present time will it report the bill back to the House with amendments, or will it report that it has come to no conclusion thereon? What is the situation?

THE CHAIRMAN: This is simply a motion that the Committee rise. There are several amendments yet to be offered. . . .

The Committee again divided, and the tellers reported that there were—ayes 86, noes 83.

6. 95 CONG. REC. 12186, 81st Cong. 1st Sess.

So the motion was agreed to.

Accordingly the Committee rose; and the Speaker pro tempore, Mr. Priest, having assumed the chair, Mr. Mansfield, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 6070) to amend the National Housing Act, as amended, and for other purposes, had come to no resolution thereon.

### ***Point of No Quorum***

#### **§ 25.2 A point of order that no quorum is present is not in order after the Committee of the Whole has voted to rise.**

On Mar. 9, 1936,<sup>(7)</sup> during consideration of H.R. 11563, and after the Committee of the Whole had voted to rise, Chairman William B. Umstead, of North Carolina, ruled that a point of order that a quorum was not present was not in order.

MR. [THOMAS L.] BLANTON [of Texas] (interrupting the reading of the bill): Mr. Chairman, I move that the Committee do now rise.

The question was taken.

MR. BLANTON: Mr. Chairman, I ask for a division.

7. 80 CONG. REC. 3459, 74th Cong. 2d Sess.

*Note:* A quorum is not required on an affirmative vote to rise. The subject of quorums and points of no quorum is treated more fully in Ch. 20. *infra*.

The Committee divided; and there were—ayes 40, noes 33,

MR. [HENRY] ELLENBOGEN [of Pennsylvania]: Mr. Chairman, I make the point of order there is not a quorum present.

THE CHAIRMAN: The Chair will count.

MR. [JOHN] TABER [of New York]: Mr. Chairman, a point of order.

THE CHAIRMAN: The gentleman will state it.

MR. TABER: Mr. Chairman, I make the point of order that a point of no quorum is not in order after the Committee has determined to rise.

THE CHAIRMAN: The point of order is sustained. The vote had already been announced.

### ***Division on Amendment After Rejection of Motion***

#### **§ 25.3 Where a preferential motion that the Committee of the Whole rise is made and rejected subsequent to a demand for a division vote on an amendment, the division is taken after the rejection of the motion that the Committee rise.**

On June 13, 1947,<sup>(8)</sup> during consideration of H.R. 3342, relating to the cultural relations program of the State Department, Chairman Thomas A. Jenkins, of Ohio, presiding, a preferential motion

8. 93 CONG. REC. 6998, 80th Cong. 1st Sess.

that the Committee of the Whole rise was made subsequent to a demand for a division vote on an amendment. The division vote was taken after rejection of the motion to rise.

THE CHAIRMAN: . . . The question is on the amendment offered by the gentleman from Wisconsin [Mr. Keefe].

The question was taken; and Mr. Angell demanded a division.

MR. [DANIEL A.] REED of New York: Mr. Chairman I offer a preferential motion.

The Clerk read as follows:

Mr. Reed of New York moves that the Committee do now rise.

THE CHAIRMAN: The question is on the motion offered by the gentleman from New York.

The question was taken; and on a division (demanded by Mr. Rayburn) there were—ayes 93, noes, 95.

MR. REED of New York: Mr. Chairman, I demand tellers.

Tellers were ordered, and the Chairman appointed as tellers Mr. Mundt and Mr. Reed of New York.

The Committee again divided; and the tellers reported that there were—ayes 101, noes 110.

So the motion was rejected.

THE CHAIRMAN: The Chair will state that before the motion was made that the Committee do now rise the question was being taken on the amendment offered by the gentleman from Wisconsin [Mr. Keefe]. There was a voice vote and then a division was requested.

MR. [JOHN W.] MCCORMACK [of Massachusetts]: Mr. Chairman, a parliamentary inquiry.

THE CHAIRMAN: The gentleman will state it.

MR. MCCORMACK: The Chair had stated that a standing vote had been requested, but I think the Chair failed to state that the Chair announced the "ayes" had it on the voice vote.

THE CHAIRMAN: No. No announcement was made on the division. The preferential motion intervened.

The question is on the amendment offered by the gentleman from Wisconsin [Mr. Keefe].

The question was taken; and on a division there were—ayes 145, noes 1.

### ***Resolving Back Into Committee After Reporting a Quorum***

#### **§ 25.4 Under the former practice, where the Committee of the Whole rose and the Chairman reported to the House that, pursuant to House rule,<sup>(9)</sup> he had caused**

9. Rule XXIII clause 2, *House Rules and Manual* §863 (1973).

*Note:* Clause 2 of Rule XXIII was amended in the 96th Congress (H. Res. 5, Jan. 15, 1979) to permit the Committee to continue its business following the appearance of a quorum so that the Speaker need not take the chair to receive the Committee's report of absentees. Prior to the adoption of this change in the rules, the Committee of the Whole followed the procedure indicated above. Under the new rule, the Committee would still rise if a quorum of the Committee failed to appear. Rule XXIII clause 2(a), *House Rules and*

**the roll to be called in the Committee to establish the presence of a quorum, the House automatically resolved back into the Committee.**

On Apr. 21, 1969,<sup>(10)</sup> the House automatically resolved into the Committee of the Whole where the Committee rose and the Chairman reported to the House that, pursuant to Rule XXIII clause 2, he caused the roll to be called in Committee, thereby establishing the presence of a quorum.

MR. [FRANK E.] EVANS of Colorado: Mr. Chairman, I make the point of order that a quorum is not present.

THE CHAIRMAN:<sup>(11)</sup> The Chair will count.

Forty Members are present, not a quorum. The Clerk will call the roll.

The Clerk called the roll, and the following Members failed to answer to their names: . . .

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. Price of Illinois, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill H.R. 514, and finding itself without a quorum, he had directed the roll to be called, when 325

*Manual* §863 (1979). The subject of quorums is discussed more fully in Ch. 20, *infra*.

10. 115 CONG. REC. 9705, 91st Cong. 1st Sess.  
11. Charles M. Price (Ill.).

Members responded to their names, a quorum, and he submitted herewith the names of the absentees to be spread upon the Journal.

The Committee resumed its sitting.

### ***On Calendar Wednesday***

**§ 25.5 On Calendar Wednesday, if the Committee of the Whole during consideration of a bill votes to rise, and the House then rejects a motion to adjourn, Calendar Wednesday business is still before the House; and if the chairman of the committee having the call calls up the same bill, the House automatically resolves itself into the Committee of the Whole and continues consideration of that bill.**

On Feb. 22, 1950, Calendar Wednesday,<sup>(12)</sup> during consideration of H. R. 4453, the Federal Fair Employment Practice Act, Speaker Sam Rayburn, of Texas, presiding, the Committee of the Whole voted to rise; thereafter, the House rejected a motion to adjourn. The Speaker indicated that the chairman of the committee having the call could call up the same bill, and, if so, that the House would automatically resolve itself into the Committee of

the Whole to continue consideration thereof.

MR. [PAUL W.] SHAFER [of Michigan]: Mr. Chairman, I offer a preferential motion. I move that the Committee do now rise.

THE CHAIRMAN:<sup>(13)</sup> The question is on the motion offered by the gentleman from Michigan [Mr. Shafer].

MR. [ADAM C.] POWELL [Jr., of New York]: Mr. Chairman, a parliamentary inquiry. Has any business been transacted in connection with the bill?

THE CHAIRMAN: That is immaterial. The motion is in order at this time.

The question was taken; and on a division (demanded by Mr. Shafer) there were—ayes 142, noes 164.

MR. SHAFER: Mr. Chairman, I demand tellers.

Tellers were ordered, and the Chair appointed as tellers Mr. Shafer and Mr. Powell.

The Committee again divided, and tellers reported that there were—ayes 172, noes 165.

So the motion was agreed to.

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. Walter, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 4453) to prohibit discrimination in employment because of race, color, religion, or national origin, had come to no resolution thereon.

MR. [HOWARD W.] SMITH of Virginia: Mr. Speaker, I move that the House do now adjourn.

Mr. Marcantonio and Mr. Biemiller demanded the yeas and nays.

12. 96 CONG. REC. 2238–40, 81st Cong. 2d Sess.

13. Francis F. Walter (Pa.).

MR. [OREN] HARRIS [of Arkansas]: Mr. Speaker, a parliamentary inquiry.

THE SPEAKER: The gentleman will state it.

MR. HARRIS: As I understand, the roll call now is on the motion to adjourn.

THE SPEAKER: That is correct.

MR. HARRIS: If the motion to adjourn is not agreed to, then what will be the parliamentary situation?

THE SPEAKER: It will be Calendar Wednesday business.

MR. HARRIS: A further parliamentary inquiry, Mr. Speaker.

THE SPEAKER: The gentleman will state it.

MR. HARRIS: Do we automatically then go back into Committee?

THE SPEAKER: If the gentleman from Michigan calls the bill up again, yes.

The yeas and nays were ordered.

The question was taken; and there were—yeas 165, nays 239, answered “present” 1, not voting 26, as follows: . . .

MR. [JOHN] LESINSKI [of Michigan]: Mr. Speaker, by direction of the Committee on Education and Labor I call up the bill H.R. 4453.

THE SPEAKER: The Clerk will report the title of the bill.

The Clerk read the title of the bill.

MR. SMITH of Virginia: Mr. Speaker, I raise the question of consideration of the bill.

THE SPEAKER: The question is, Will the House consider the bill?

MR. SMITH of Virginia: Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The question was taken; and there were—yeas 271, nays 133, not voting 27, as follows: . . .

The result of the vote was announced as above recorded.

THE SPEAKER: The House automatically resolves itself into the Committee of the Whole House on the State of the Union for the consideration of the bill.

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 4453) to prohibit discrimination in employment because of race, color, religion, or national origin, with Mr. Walter in the chair.

The Clerk read the title of the bill.

*Parliamentarian's Note:* On this Calendar Wednesday, because of numerous roll calls and motions, the House stayed in session until 3:19 a.m. Thursday morning, when the reading of the engrossed copy was demanded. The House then adjourned and met at noon Thursday to read the engrossed copy and pass the bill.

### ***Vacating Vote to Rise***

**§ 25.6 A Committee of the Whole may by unanimous consent vacate the proceedings by which it has voted to rise.**

On Feb. 5, 1936,<sup>(14)</sup> during consideration of H.R. 10919, the Departments of the Treasury and Post Office appropriations bill, Chairman Arthur H. Greenwood,

14. 80 CONG. REC. 1534, 74th Cong. 2d Sess.

of Indiana, stated that the Committee of the Whole could by unanimous consent vacate the proceedings by which it had voted to rise.

MR. [LOUIS] LUDLOW [of Indiana]: Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

MR. LUDLOW: Mr. Chairman, a parliamentary inquiry.

THE CHAIRMAN: The gentleman will state it.

MR. LUDLOW: May I ask what is the status of the Committee now?

THE CHAIRMAN: We are waiting for the Speaker to arrive to report that the Committee has determined to rise.

MR. LUDLOW: Mr. Chairman, I ask unanimous consent that the proceedings by which the Committee determined to rise be vacated.

THE CHAIRMAN: Is there objection to the request of the gentleman from Indiana?

There was no objection.

MR. LUDLOW: Mr. Chairman, I yield 5 minutes to the gentleman from Iowa [Mr. Wearin].

## **§ 26. Resumption of Business After Committee Resumes Sitting**

### ***Continuation of Debate When Committee Resumes Business After Rising***

#### **§ 26.1 Where the period of time for debate has been fixed on**

**an amendment in the Committee of the Whole and the Committee rises before the time expires, debate continues when the Committee resumes its deliberations.**

On June 16, 1948,<sup>(15)</sup> the Committee of the Whole was considering H.R. 6401, the Selective Service Act of 1948, under Chairman Francis H. Case, of South Dakota. Time for debate had been fixed on an amendment by the Committee, but a motion to rise was offered before the time had expired.

MR. [WALTER G.] ANDREWS of New York: Mr. Chairman, in view of the fact that two or three Members who have time are not here, I move that the Committee do now rise. . . .

MR. [VITO] MARCANTONIO [of New York]: Mr. Chairman, a parliamentary inquiry.

THE CHAIRMAN: The gentleman will state it.

MR. MARCANTONIO: Mr. Chairman, under the arrangement entered into limiting debate on this amendment, will the Members who were scheduled to be recognized be recognized when the Committee resumes its deliberations?

THE CHAIRMAN: They will be recognized, if the Committee should vote to rise, when the Committee meets again.

MR. ANDREWS of New York: Mr. Chairman, a parliamentary inquiry.

15. 94 CONG. REC. 8521, 80th Cong. 2d Sess.